

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

**Document Title: Shelby County, Tennessee, Arrest Policies
Project: A Process Evaluation**

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Document No.: 201878

Date Received: September 2003

Award Number: 98-WE-VX-0012

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Shelby County, Tennessee, Arrest Policies Project

A Process Evaluation

April 5, 2000

Prepared for
Shelby County, Tennessee
National Institute of Justice
Violence Against Women Office

Prepared by
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This project was supported by Grant No. 98-WE-VX-0012 awarded to the Institute for Law and Justice by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Overview of Shelby County Arrest Policies Project

The Arrest Policies program in Shelby County grew out of a statewide conference in 1995 in Nashville sponsored by the state Task Force on Domestic Violence to implement new domestic violence legislation enacted that year. Local justice system and advocates from all over the state attended. Prior to that event, there had been little attention paid to domestic violence issues in Shelby County. The key action point of the conference attendees from Shelby County was the admonition that there must be a broad-based community coalition focusing on domestic violence issues. From this conference a local Domestic Violence Council was formed, composed of political, justice system, and advocate leadership representatives.

With the formation of the Council, discussion began about how to improve the way in which the justice system was responding to victims of domestic violence. Special attention was paid to a plan to develop a domestic violence court along the lines of special drug courts that were then being established around the country. But funding such a court would be expensive. As plans were being developed, the Violence Against Women's Office issued its RFP for the Arrest Policies Grant program. The Pretrial Services office, headed by Bill Powell who had first broached the idea of a special court, was designated as the lead agency to respond to the RFP.

In December of 1996, VAWGO awarded a grant of \$575,000 to Shelby County to establish a full-time domestic violence court, one of the first such courts in the country at that time. The goal of the court was to serve as a "focal point for our efforts to achieve ...[a] coordinated community response" to domestic violence. More specifically, "[t]he Domestic Violence Court has provided a forum to bring these diverse agencies together and centralize our efforts into a coordinated response...."

The specific operational goals of the project was to

- Consolidate all judicial proceedings in one court
- Consolidate monitoring of offender supervision, pre and post-trial
- Centralize victim requests for orders of protection and arrest warrants
- Create a dedicated prosecution unit for domestic violence cases

- Establish a mechanism for increase justice system referral of victims to agencies providing services
- Increase the number of staff providing services to domestic violence victims

Other more indirect goals of the program were to improve

- Victim access to the justice system
- Law enforcement response to victims, including better implementation of arrest policies and procedures
- Coordination between law enforcement and prosecution
- Offender accountability.

To achieve the primary system operations goals, the grant supported assignment of

- Pretrial Services Agency staff at the Citizen's dispute Center to review victim requests for orders of protection and for arrest warrants and refer requests to a judicial hearing officer.
- Pretrial Services Agency staff to comprehensive review of all applications for bail of defendants arrested for domestic violence and to provide recommendations to the Domestic Violence Court for appropriate conditions of release
- Full time head of a newly formed specialized domestic violence prosecution unit and a full-time investigator for that unit
- Victim service agencies' staff assigned as court advocates

Domestic Violence in Shelby County

Domestic violence is broadly defined in Tennessee. Under a 1997 law, it now includes cases involving infliction of injury, including attempts (assault); threats to inflict harm (including stalking); physical restraint; and malicious damage to personal property of an abused person. The law also applies to intimate partners or former partners, but also to roommates, dating partners, and relatives. The most important consequence of this broad application of the domestic violence law is the inclusion of assault cases involving siblings.

Domestic assaults constitute a significant proportion of all violent crime in Shelby County. They constitute about 10 percent of all incident reports filed by the Memphis Police

Department. Assaults between intimates or former intimates take up nearly 20 percent of all adult assault cases and a similar proportion of the county's homicides are domestic violence related. With the enactment of a new domestic violence law in 1997, the number of reported DV incidents rose in 1998 by 24 percent.

The Domestic Violence Arrest Policies Initiative

Prior to the Arrest Policies grant, misdemeanor domestic violence crimes were heard in all 7 criminal courtrooms of the 30th Judicial District Court. Requests for orders of protection were heard in 9 civil divisions of the Court of General sessions and before three judges in the Chancery Court. Not surprisingly, with as many as 19 judges hearing domestic violence cases, there were considerable complaints about inconsistency in how domestic violence cases were treated. But there were other complaints as well about how victims were treated in the courts and the difficulties victims had in obtaining orders of protection and arrest warrants when criminal complaints were made directly to the court (or where police had been unable to arrest a suspect at the scene of a domestic violence incident).

As a result of these several complaints, there was general consensus that centralization of the court's response to domestic violence complaints was needed for each of the three different paths victims that take to get to court: arrest of a batterer, arrest warrant requests, and order of protection petitions. To deal with these several ways in which domestic violence cases are handled in Shelby County, the key components of the Arrest Policies grant include

- The Domestic Violence Court
- Special prosecution unit
- Pretrial Services bail review
- Pretrial Services Citizen's Dispute Center
- Victim services agencies

The Domestic Violence Court

A single judge is assigned to the Domestic Violence Court to hear all criminal matters involving domestic violence. Originally the Court heard only misdemeanor assault and stalking

cases and accepted pleas to misdemeanor charges in felony cases transferred from other divisions of the General Sessions Court that held felony preliminary matter hearings; beginning in January 2000, the court now hears felony preliminary matters and accepts pleas to misdemeanor charges in felony cases where the prosecutor has agreed to reduce charges. A judge from the General Sessions Criminal Court volunteered to preside over the Domestic Violence Court and began sitting in April 1997. A new judge was assigned to the domestic violence court in January 2000.

The case process in criminal court in Tennessee includes a number of steps. In misdemeanor cases, these are

- Bail and probable cause review of the arrest within 10 to 24 hours; during weekdays, bail is set continuously
- Arraignment (next court day) and appointment of counsel (in felony cases the judicial commissioner hearing bail matters may also conduct arraignment); arraignment court docket is prepared at midnight for the following day's session.
- Resets, involving periodic case status calls, either for 1 week if in custody or 2 weeks if out; includes first reset to obtain retained counsel if not indigent
- Plea or trial (trials must be held in the state Criminal Court (which tries felony cases), since misdemeanor courtrooms do not have seating for jury trials).
- Sentencing to jail or County probation (including payment of a supervision fee by non-indigents); while private probation companies provide a fee service (e.g., house arrest) in other criminal cases, they are generally not used in domestic violence cases.

In felony cases, the procedure also includes

- Preliminary hearing to determine if the case should be sent forward to indictment
- Grand jury indictment
- Felony arraignment.

The primary reforms instituted by the Domestic Violence Court are the increased use of Pretrial Services staff to prepare release recommendations for the three rotating bail hearing magistrates and to screen and prepare victim requests for orders of protection. While the original plan was to have the judge presiding over the court also hear orders of protection requests, caseload pressures forced the court in September 1998 to have judicial commissioners preside over these hearings.

The key issue in case processing is appointment of counsel. Until this past January, the Domestic Violence Court judge tended not to appoint public defender counsel. Instead she required marginally indigent defendants to retain paid counsel. Because many of these defendants had limited resources, they were often slow in paying counsel. Hence, attorneys would request the court to defer proceeding on their cases until they were paid. As a result of these practices, most cases had their proceedings reset numerous times. The judge now assigned to the court has reversed both policies and appoints public defender counsel in most cases.

An important feature of the Domestic Violence Court is periodic status hearings to review defendant attendance at treatment programs. These hearings are scheduled on average every 6 months. These hearings are for the most part informal, with the defendant, the prosecutor, and probation officer attending. Only if there are problems will there be a hearing before the judge. Probation officers continue, of course, to supervise defendants and may ask the court for an arrest warrant where the defendant fails to attend treatment or to appear at a status hearing. Such probation violations are treated as contempt of court and are subject to incarceration for up to 10 days in jail. First offender violators usually only spend the night in jail and probation reinstated. Second offenders are generally dealt with as probation violations, not as contempt of court cases. There is no data, however, on revocation rates. In any case, revocation proceedings are typically deferred until any underlying criminal charges are resolved. As a result, when revocation does occur, sentencing is generally concurrent with the new criminal sentence. It seems that no effort is made to leverage the revocation to induce a plea to the criminal charge.

Another new and important feature of the Domestic Violence Court is its use of the newly established (January 1999) Domestic Violence Assessment Center (DVAC) to help the court to set sentences. After defendants are convicted and placed on probation or diversion, they are assessed by the DVAC for the most appropriate sentence. County Probation staff in the courtroom to do intake interviews of newly sentenced probationers inform the defendant after the initial probation order is issued where and when to report to the Assessment Center. By and large, the DVAC performs a needs assessment, although some risk assessment tools are used (e.g., SARA). Approximately 30 days after the initial sentencing, a status hearing is held to review the recommendations of the DVAC and adjust the sentence accordingly. Typical

recommendations offered by the Center include substance abuse treatment, parenting classes, etc. The founder of the DVAC reports that it sees about 110 to 120 defendants per month; defendants convicted of non-intimate domestic violence are not sent to the DVAC. Failure to complete the assessment program is treated as any other probation violation. In appropriate cases an arrest warrant may be issued. In most cases, the defendant is permitted to reenter the assessment program until completion. If the defendant continues to fail to cooperate, contempt of court or imposition of the suspended sentence occurs.

Upon completion of probation, the court will hold a final status hearing at which time the Discharge Summary showing successful completion of batterer treatment is presented. The prior judge also required defendants to prepare a written essay stating what he had learned from the program. This is no longer done by the new Domestic Violence Court judge.

Special Prosecution Unit

The Arrest Policies grant includes funds for a supervisory prosecutor in charge of a newly formed domestic violence prosecution unit. In addition to the supervisor, the unit now includes four assistant prosecutors, one prosecutor being added in October 1998 when the grant was renewed by VAWGO. At the same time the unit began vertical prosecution of domestic violence cases. This includes continued representation at jury trials and felony proceedings. However, because of caseload pressures, assistants assigned to the General Sessions Court will take domestic violence cases on. Because assistant prosecutors rotate through the unit, several of the prosecutors in that court have served with the domestic violence unit. The Domestic Violence prosecution unit also assists the Violent Crimes prosecution unit in domestic homicide cases; the DV Unit supervisor recently was responsible for a preliminary hearing in a domestic violence homicide. The Unit also coordinates with the Child Advocacy prosecution unit, responsible for child abuse cases, where the case involves domestic violence. The latter Unit would handle cases referred by the DV prosecutors where the child was the target of the violence or was seriously injured as a bystander. There is no child endangerment law in Tennessee, however, that in other states allows for a separate charge against an abuser where his actions could have posed a threat to the child, but where no serious injury occurred.

The domestic violence prosecution unit has a no-drop policy for prosecutions (this policy was adopted before formation of the unit). However, because the prosecutor's office does not have a screening unit, the unit assistants see a significant number of cases that are not prosecutable for lack of evidence (an estimated 15 percent). Prosecutors do not always dismiss these cases, instead asking the defendant to voluntarily attend a treatment program, after which charges will be dropped. In other cases, the defendant will agree to plead guilty to the charges and attend a diversionary program; again, charges are dropped after successful completion of treatment. In diversion cases, unlike probation, no sentence of incarceration is set by the court after the plea of guilty; probation involves suspension of sentence, rather than a separate sentence of its own. Only defendants with no prior convictions are eligible for diversion. The Project Evaluation indicates that the use of diversion has increased; one reason for this may be enactment of the preferred arrest law bringing in more first offenders whom police would have not arrested previously.

In the majority of cases that are prosecuted criminally, without diversion, the prosecutors' goal is to obtain a conviction regardless of severity of charge, so to be able to have probation supervision imposed and a court order of protection as a part of the probation order. There is no data on how often such conditions are imposed. Other conditions of probation may be imposed as part of a mandatory offender assessment done by the newly formed Domestic Violence Assessment Center, which is conducted after a plea is taken and is used by the court to fashion the probation conditions.

Pretrial Services Bail Review

The Arrest Policies grant funds three staff positions (and a supervisor of both Pretrial Services units funded under the grant) to improve pretrial screening in Shelby County. Largely because of political fears (judges are elected), the court has not adopted policies favoring release on own recognizance. Prior to the Arrest Policies grant, the relative lack of attention paid to domestic violence and, perhaps (I suspect), the possibility of jail overcrowding led to a practice of requiring relatively low bails in domestic violence cases. Today, state law requires individualized bail determinations in domestic violence cases; a bail schedule used in other misdemeanor cases can not be used. As a result, bails are estimated to now average about \$500

compared to \$100 earlier. An estimated 20 percent of defendants are now released on ROR; no estimates of pre grant ROR is available. Pretrial release is responsible for monitoring ROR releasees and will provide reminders of forthcoming court dates.

The Pretrial release staff are usually the only participants at the bail hearing, other than the judicial commissioner and the defendant. The prosecutor's office is not represented at these hearings (and may not have even seen the charging papers) and no defense counsel has yet been appointed. As a result, the only information about the need for any special conditions of release come from Pretrial Services. With the implementation of the Arrest policies grant, the judicial commissioners presiding at the bail hearings are much more commonly issuing stay away orders as a condition of release, but there is no data on how often this is done.

On average, cases take 10 hours for processing into the jail, charging by the Court Clerk from the arrest information, and bail/ROR review, thus providing an informal "cooling off" period. Interestingly, prior criminal record history used by Pretrial Services is gained from the computerized Jail Management System or the court's Justice Support System.

Bail hearings are held before magistrate-like officials. At the bail hearing after arrest and jail booking, the Pretrial Services staff will present recommendations for the amount of bail to be required and what conditions should be imposed by the court as part of jail release. The grant funds increase the number of staff reviewing bail applications and permit them to obtain considerably more information about the defendants than was previously possible. For example, Pretrial Services staff now routinely try to talk with the victims of domestic violence as part of a risk assessment determination. When they reach the victim, the staff use a checklist to gain the information needed. This information can also be used by the Domestic Violence Assessment Center and the victim services agencies. Pretrial Services will also refer victims whom they reach to victim services.

The information provided by the Pretrial release staff is, of course, used by the court to set release conditions. The same information is also provided to the prosecutor, who reports that this information is used to induce quicker pleas, since the prosecutor now has new information not previously available about the defendant (including the victim's story to the pretrial release staff). They are thus in a better bargaining position.

One advantage of the resultant increased use of release conditions is that Tennessee law authorizes arrest without warrant for violation of release conditions. Because the conditions of release are entered into a multiple agency MIS, law enforcement officers may determine at the scene of an incident whether release conditions have been violated.

Pretrial Services Citizen's Dispute Center

Since July 1997, the Arrest Policies grant supports three full-time staff (and a supervisor who splits her time between the two Pretrial Services units) who review victim requests for arrest warrants or orders of protection. Victims are referred to the Center by police, the court, the prosecutor, and victim services agencies. Police referrals most commonly occur when police are called to the scene of a domestic violence incident, but can not arrest the perpetrator who has fled the scene. Although police have probable cause to arrest, they are not certain how long that probable cause lasts and so do not do any follow-up arrests. Nor do they ask the court for an arrest warrant except in felony cases. Instead, the victim is advised to go to the Center and request a warrant be issued. Copies of the police report are not provided the victim, nor does Dispute Center staff have any other access to the police reports. In cases where the defendant has been in custody and the victim is requesting an order of protection, Dispute Center staff are able to access the pretrial release report.

The Citizen's Dispute Center was originally established to provide a forum where lesser criminal matters could be resolved informally through mediation. Typically cases came to the Center through citizen requests that the court issue an arrest warrant. Because many such requests were terminated when the party requesting the warrant refused to go forward with the case, Pretrial Services was asked to screen out cases not likely to result in criminal prosecutions. Part of that screening included an offer to mediate. The procedure following a Center determination that a warrant should be issued is to take the case to a judicial commissioner who reviews the case facts presented by the Center staff and the complainant and makes a ruling whether to sign the warrant. Once signed, the warrant goes to the Shelby County Sheriff's Department 's fugitive squad that serves the warrants. The evaluation shows about 67 warrants issued per month. Estimates of squad success in serving warrants are missing. Where warrants

are served, an important evaluation task is to determine the outcomes in these cases compared to probable cause arrest cases.

The Center's second responsibility is to review victim requests for orders of protection. Presumably, Center staff assist victims in preparing the court petition and accompany victim's to court. Court hearings for protection order are not held in the Domestic Violence Court, because of the large caseload from criminal matters; initially the project grant called for the DV court to handle all misdemeanor and civil matters. Instead, the petitions are heard by the judicial commissioners (who also set bail) The Center's original mediation objective has largely disappeared in domestic violence cases, except where the parties involved are siblings.

Victim services staff report that hearings to issue orders of protection begin at 1 PM. If a victim comes in seeking an order after that time, she must wait until the next day for a hearing (check on statute authoring *ex parte* or emergency orders). Similarly, victims seeking an order in the morning must wait until issuance time occurs.

Victim Assistance Center and YWCA Abused Women's Services

Two different agencies provide assistance to victims under the Arrest Policies grant. The first of these is the Shelby County Victim Assistance Center (VAC), established by the county government in 1995. The Arrest Policies grant funds two VAC court advocates to assist victims of domestic violence. In addition to its Arrest Policies staff, VAC has two counselors assisting victims with orders of protection and another counselor working with underserved populations, both using STOP funds. Additional VAC staff have more general duties such as helping with victim compensation claims (VOCA grant).

The second service agency is the Shelby County YWCA is a private, non-profit service agency. It does not receive direct funding under the grant, but instead is a subcontractor of the grantee, Shelby County. Two court advocates are supported under the subcontract. The YWCA's involvement in serving domestic violence victims goes back as least as far as 1980 when it established a shelter specifically for abused women. The YWCA also operates a hot line and holds meetings of a survivor's support group. At present, the YWCA has 25 staff serving abused women in various projects, including shelters and five staff working with the Department of Human Services on welfare claims. The VAC had only one court advocate staff prior to the

grant providing services to abused women at the YWCA shelters under a VOCA grant. Including the Arrest Policies grant funded positions, VAC now has six staff serving these victims; STOP and VOCA funds are used for these other positions.

Referrals to these agencies primarily come from the Pretrial Release staff. Referrals are randomly distributed to the two agencies; the referrals include copies of the pretrial release report and its risk assessment (shows prior victimizations). These referrals are made in court at the arraignment hearings. The advocates then attempt to contact the victims to provide crisis counseling, help with a safety plan, and make referrals as needed. Most contacts are made in court when the victim appears at arraignment hearings where the advocates routinely ask the identities of any women appearing in court. Not surprisingly, most of the women at these hearings want the batterer released and the advocate's role is to "win them over." The success rate with first-time victims is low, an estimated 15 percent. As time allows, the advocates will make follow-up phone calls to reach victims. No use of letters is made by the advocates as an alternative way to reach victims. VAC reports that its advocates are in the courtroom every other day (rotation scheme), while the YWCA staff indicate both their court advocates are in court every day. Follow-up phone calls are made by VAC staff to victims not appearing in court on their non-court days, while YWCA staff make their follow-ups from the courthouse. VAC also uses students who they train to contact victims, help with safety planning and assess victims' need for services. Follow-up calls typically ask victims about whether they need medical, counseling, legal or other services for either themselves or their children. Victims are also asked about welfare issues. With this range of topics, calls may take between 10/15 minutes to one hour. The VAC and YWCA advocates may also call the victims back to provide information about court dates, bond conditions, other case information, or to provide referral information.

Other referrals to VAC or the YWCA may be made by police officers (police require victim to sign that she has been told of her right to transportation and received information about shelters and other victim services), Pretrial Release staff who contact the victims while determining recommendations for bail release, prosecutors, Citizen's Dispute Center staff processing requests for warrants and orders of protection, and even the judge. These referrals may occur in the courtroom (judge and prosecutor) or by victim telephone calls following a police referral. An effort is made to match victims with an advocate they may previously have

worked with in cases where she has been a victim before. This seems to be a feasible plan, because they have had limited turnover of advocate staff in the two agencies. It is unclear how these referrals to a former counselor are actually done: by Pretrial release staff using arrest records or by victim services staff. Police referrals are not a major source of victims calling, except when the victim goes to a shelter.

It is unclear how many victims call these agencies as a result of Pretrial Release, Citizen's Dispute, or police referrals. Nor do we know how many women are contacted on telephone follow-up (while the Project Evaluation estimates that 90 victims are contacted by phone each month, the validity of this estimate needs to be examined). Given the limited staff and high number of cases, it appears that most of the victims served by the two agency staff are reached in court or at the Citizen's Dispute Center. This estimate is contrary to that of the Project Evaluation which estimates that referrals from Citizen's Dispute result in 180 cases per month involving direct services and that 90 victims per month are contacted by phone following referral from Pretrial Release. (pg 64).

Evaluation Findings

Statistical Measures of Performance

Caseload Measures. Each month, there are about 900 domestic violence-related calls for service in Shelby County, resulting in 360 probable cause and warrant arrests for domestic violence. Of these 360 cases, about 20 cases each month are transferred to the state Criminal Court for jury trials according to Project Evaluation estimates, leaving 340 cases in the Domestic Violence Court. An additional 30 cases are heard each month as part of the Court's status hearing procedures (this probably includes both dismissals due to successful completion and dismissals for failure to attend). County Probation caseloads number 170 domestic violence referrals each month; County Probation has 12 counselors supervising a caseload of 3500 probationers.

Each domestic violence incident regardless of whether an arrest was made should result in a Pretrial Services release evaluation and a referral to victim services (VAC, YWCA). The Project evaluation estimates that between 600 and 700 victims each month are referred to the two

victim services agencies. However, agency records indicate a fall-off with VAC reporting only 2400 referrals annually. The Project Evaluation provides a lower estimate of service, 180 victims provided services per month.

Felony arrests total about 80-90 monthly. Of these, only 20-30 are actually proceeded against as felonies. VAC reports that it receives about 40-50 felony arrest referrals a month.

Performance Measures. The Project Evaluation found that of the 340 cases heard in the Domestic Violence court each month, a guilty plea or diversion agreement accounts for an estimated 60 percent of the cases. Of these, 15 percent are sentenced to incarceration and 85 percent to probation. Of the latter cases, 85 percent (intimates cases only) are sent to the Domestic Violence Assessment Center (145 per month), most of whom complete the assessment (120 per month).

Somewhat similar statistics are reported by the District Attorney General's Domestic Violence Unit. For 1999, the Unit reports it handled 4023 misdemeanor cases, of which guilty pleas or findings and diversion numbered 2258 cases (56 percent). Cases dismissed or *nolle prossed* totaled 1493 (37 percent). An additional 56 cases were either dismissed because of a defective affidavit, lack of probable cause, or found not guilty at trial (1.4 percent). The remaining cases had other dispositions in Domestic Violence Court such as transfer to another court or death. Looking at only convictions and dismissals, the conviction rate in 1999 was 59.6 percent, virtually identical with the Evaluation finding. The Unit statistics also suggest that were extra effort made to resolve trial preparation problems such as witnesses not showing up, the conviction rate could be increased to 65 percent, among the best in the country.

Of the probationers evaluated by the Assessment Center, 90 percent are ordered to complete a batterer treatment program (110/month), 35 percent ordered into a substance abuse program (40/month), 41 percent sent to parenting classes (50/month), and 10 percent sent to psychiatric treatment (10/month).

There is no information about the number of victims receiving different types of services, such as counseling, safety planning, court accompaniment, etc.

Time Series Findings. The Project Evaluation found that for cases arraigned in the 9 month period post domestic violence court implementation compared to the first 3 month period during the six months before implementation there was:

- Reduction in number of cases declined for prosecution or dismissed by the judge at the request of the prosecution from 20 percent to 9 percent dismissals
- No significant change in guilty findings (44 percent)
- Increase in diversions from 5 percent to 15.3 percent (7 percent to 20 percent omitting missing data)
- Decrease in dismissal rates from 19.6 percent to 8.8 percent (if missing data is included as dismissals, dismissals went from 50.8 percent to 40.6 percent)
- Decrease in rate of cases seeking jury trials (9 percent to 2 percent)
- Increase in time before cases dismissed and *nolle prossed* from 88.5 days to 1116.8 days (largely reflects use by prosecutor in weaker cases of promising dismissal where defendant goes to informal probation/treatment attendance; also delay dismissal in hope victim changes mind to testify)
- Increase in proportion of defendants ordered to stay away from victims as condition of probation (18.2 percent to 73.5 percent)
- Increase in proportion of defendants sentenced to treatment as condition of probation (20.5 percent to 76.6 percent) and to substance abuse treatment (13.9 percent to 35 percent)
- Non-significant reductions in recidivism rates (e.g., new domestic violence incident report, 21.9 percent to 16.2 percent)

Victim services data reported by the Project Evaluation does not have before data. It simply reports on the current status of such services and victim responses to the system. This data might be used to show how the project has improved over time, however. It shows

- Almost half (44.7 percent) of victims surveyed reported having contact with victim advocates after arrest; 68 percent reported high level of satisfaction with advocates
- Significant delay of 8 days on average between referral after arrest to victim report of advocate contact (seems improbable)
- Nearly half the victims reported high level of satisfaction with how they were treated by the court (44.4 percent)

Related Change Activities

Several activities have occurred as a result of the increased attention to domestic violence brought on by the formation of the Domestic Violence Court. These include

- Memphis Police Department domestic violence unit
- Shelby County Sheriff's Department domestic violence unit
- Domestic Violence Assessment Center.
- Probation Department (increases in verifying program attendance, revocation)

One of the goals of the Arrest Policies grant was to improve law enforcement response to domestic violence. To date there has been only limited success for this goal, except for the changes in arrest practices brought on by enactment of the preferred arrest policy in 1994 (e.g., VAC says Memphis police must have a superior approve decision not to arrest). Memphis Police Department officers are in dire need of training, it is said by local informants (see reference above to 15 percent of cases being unprosecutable). VAC does report providing training to the Memphis police, but not the Sheriff. The domestic violence detective unit in that agency is relatively ineffective because assignment to the unit is subject to union contract provisions requiring officers to "bid" on the positions. Interest in domestic violence issues is not a determining factor in weighing competing bids. The Shelby County Sheriff's Department's domestic violence unit is said to be more effective, but they handle a much smaller caseload. While the Project Evaluation states (pg. 16) that the two law enforcement agencies established a joint DV unit in 1997, none of the interviewees seemed to be aware of this being a functioning unit.

The Sheriff now maintains computerized registry of protection orders. Before the Arrest Policies grant, paper records were maintained by the Fugitive Squad. It is unclear whether the Arrest Policies grant can be said to have contributed to this change.

There are presently 13 treatment programs for batterers; this is an increase from 8 programs from last year. In general, these programs offer similar services. Only one program has bi-lingual staff. There was no information provided whether the Arrest Policies grant has lead to any increase in programs or their capacity to provide treatment services (however the DVAC director says that new programs have been developed to work with special populations,

such as low IQs). Nor is there any information about whether the Pretrial Services, prosecution or Assessment Center staff have worked to monitor the quality of treatment provided by these programs (programs are certified by the Domestic Violence Council) and are subject to state standards). Thus, the DVAC director reports that the discharge policy for failure to attend is not consistent across programs and not all programs file Discharge Summaries with the court for probation completion, although some do voluntarily.

Problem Areas

The Shelby Court Arrest Policies Project is still a program in development. It has resulted in many significant changes in the operation of the justice system and in providing services to victims. Because the justice system as a whole in Shelby County itself needs major reforms, advocates for reform in how domestic violence cases are handled have had considerable inertia to overcome (e.g., recent change to appointment of public defenders instead of fee counsel as the norm and denial of resets to collect fees; routine denial of victim request to modify stay-away order unless advocates urge it be done). Hence, the problems identified here should not be seen as indicative of any lack of understanding by the Arrest Policies planners and practitioners (indeed, many of these issues were identified by local agency staff). Or of any lack of commitment to improved response to domestic violence. With this important caveat in mind, the most important problems in Shelby County's handling of domestic violence complaints include the following.

- Absence of screening unit in the District Attorney's office that could eliminate non-prosecutable cases before they reach the domestic violence prosecution unit, allow prosecutors to appear at bail hearings, and provide feedback to arresting officers on the quality of their work in developing cases for prosecution.
- Unknown problems leading to high dismissal rate at trial (45 percent) due to inability to proceed (witnesses absent). This needs to be examined to determine how best to lower this rate.
- Limited availability of victim services on weekends, when many domestic violence incidents occur. This includes the VAC, the Citizen's Dispute Center, and the availability of a judicial officer to hear requests for orders of protection.
- Limited availability of bi-lingual staff is growing as Hispanics and Asians move to Shelby county.

- Lack of aggressive policing as evidenced by failure to pursue arrest warrants on their own when they have probable cause to arrest; failure to do follow-up visits to arrest fugitives who fled the scene when police were called; problems in serving orders of protection when suspect denies being person to be served and no check on identity by Deputies serving orders (up to 25 percent of orders not served). Neither law enforcement department uses a domestic violence supplemental incident report. Instead a NIBRS like incident report is used that includes some specific domestic violence related questions. A related problem is the high dual arrest figures; almost 14 percent of all arrests involve mutual arrests according to the prosecutor's data (Pretrial Services reports 9 percent dual arrests).
- Excessive workload for victim services partners far beyond their capacity to handle. The Project Evaluation recommends better prioritization of cases, but does not specify how this could be done. Presumably, identification of high risk victims could be done using incident reports that show weapon use, injuries, or harm to children.
- Limited capability of County Probation to supervise domestic violence probationers.
- Possible lesser sentencing in domestic violence assaults compared to non-domestic violence assaults (YWCA informant).

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